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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RELIANT TECHNOLOGIES, a Delaware corporation,)	Case No. C 08-02515 MMC
)	
Plaintiff,)	<u>PLAINTIFF'S MOTION TO</u>
)	<u>CONTINUE HEARING</u>
vs.)	
)	
ROBERT L. MCDANIEL, an individual,)	
)	
Defendant.)	

1 Plaintiff Reliant Technologies ("Reliant"), pursuant to Civil L.R. 6-3, hereby
2 moves this Court to continue the hearing for Defendant Robert Lane McDaniel's Motion to
3 Dismiss for Lack of Personal Jurisdiction ("Motion to Dismiss"), which is currently set for
4 September 5, 2008. In support of this motion, Reliant states as follows:

5 1. Reliant filed the original Complaint on May 16, 2008 and an Amended Complaint
6 on June 19, 2008, before the filing of any responsive pleading.

7 2. On June 12, 2008, Defendant requested—and counsel for Reliant granted—a
8 thirty (30) day extension of time for Defendant to answer or otherwise respond to Reliant's
9 Complaint.

10 3. On July 21, 2008, Defendant filed the pending Motion to Dismiss wherein he
11 contests personal jurisdiction.

12 4. On July 24, 2008, the Court issued an order stating that Defendant's motion was
13 defective because he failed to notice the motion for a hearing.

14 5. On July 30, 2008, Defendant re-filed the Motion to Dismiss and noticed the
15 motion for a hearing on August 29, 2008. Defendant's Motion to Dismiss, however, failed
16 comply with Local Rule 7-2(a) because it requested a hearing within thirty-five (35) days of the
17 filing, service, and notice of his motion.

18 6. On August 7, 2008, Defendant filed an amended notice of hearing for the Motion
19 to Dismiss, requesting that the hearing be set for September 5, 2008.

20 7. On or around August 8, 2008, counsel for Reliant contacted Defendant to request
21 an extension of time to respond to Defendant's motion to dismiss beyond Reliant's pending
22 deadline of August 15, 2008. Counsel for Reliant also informed Defendant that lead counsel was
23 unavailable to attend the hearing on September 5, 2008. Defendant refused to grant Reliant an
24 extension of time to respond to the Motion to Dismiss, and Reliant therefore filed its Opposition
25 to the Motion to Dismiss on August 15, 2008. See Declaration of Thad Chaloemtiarana attached
26 hereto as Exhibit A, ¶5.

27 8. Defendant's Reply in Support of his Motion to Dismiss was due on August 22,
28 2008. On August 21, 2008, Defendant filed a "Motion for Extension of Time to File Response

1 as to Memorandum in Opposition to Defendant's Motion to Dismiss" ("Motion for Extension of
2 Time"). See Declaration of Thad Chaloehtiarana, ¶6. In the Motion for Extension of Time,
3 Defendant requests that the Court grant him fourteen (14) days to file his Response. Defendant
4 did not request a new hearing date for the Motion to Dismiss.

5 9. On August 26, 2008, counsel for Reliant contacted Defendant and stated that
6 Reliant would be willing to stipulate to Defendant's request for fourteen (14) day extension of
7 time, provided that Defendant would consent to reschedule the September 5, 2008 hearing date
8 to a time convenient for Reliant's counsel. Defendant refused to grant consent to modify the
9 September 5, 2008 hearing date. See Declaration of Thad Chaloehtiarana, ¶7.

10 10. Raymond I. Geraldson, Jr. and Thad Chaloehtiarana, lead counsel for Reliant
11 located in Chicago, Illinois, are unable to attend the hearing in person on September 5, 2008.

12 11. Mr. Chaloehtiarana's wife is expecting a baby within approximately a week of
13 September 5, 2008, and accordingly, Mr. Chaloehtiarana is unable to travel to attend the
14 September 5, 2008 in person. See Declaration of Thad Chaloehtiarana, ¶4.

15 12. Mr. Geraldson has a long-standing, previously scheduled trip to South Carolina
16 between September 3 and 8, 2008 and therefore would be unable to attend the September 5, 2008
17 hearing in person. See Declaration of Raymond Geraldson, attached hereto as Exhibit B, ¶4.

18 13. If the court is inclined to grant Defendant's request for a fourteen (14) day
19 extension of time to respond (i.e. up to and including September 5, 2008), Reliant will need time
20 to review Defendant's reply brief in advance of this Court's hearing on Defendant's motion to
21 dismiss.

22 14. Lead counsel for Reliant are available to attend a hearing on Defendant's Motion
23 to Dismiss on September 19, 2008 or October 10, 2008.

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1 Wherefore, Reliant hereby requests that this Court enter the Proposed Order continuing
2 the hearing on Defendant's Motion to Dismiss to September 19, 2008 or October 10, 2008.

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4 Dated: August 26, 2008

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Case No. C 08-02515 MMC

RELIANT TECHNOLOGIES, a Delaware
corporation,

Plaintiff,

vs.

ROBERT L. MCDANIEL, an individual,

Defendant.

[PROPOSED] ORDER

Before the Court is Reliant Technologies, Inc.'s ("Reliant") Motion to Continue the Hearing on Defendant Robert Lane McDaniel's Motion to Dismiss for Lack of Personal Jurisdiction (Doc. 11) Reliant's Amended Complaint for cybersquatting, trademark infringement, common law unfair competition, and violation of the California Unfair Practices Act, Cal. Bus. & Prof. Code § 17200. Counsel for Reliant have demonstrated for good cause that they are unable to attend the hearing currently set for September 5, 2008 and have requested that the Court continue the hearing to October 10, 2008 or, in the alternative, September 19, 2008. The

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Court hereby GRANTS Reliant's motion and continues the hearing on Defendant's Motion to
Dismiss to October 10, 2008 at 9:00 a.m.

IT IS SO ORDERED.

Dated: _____

MAXINE M. CHESNEY
United States District Judge

Submitted by:

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